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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/051,340

01/18/2002

Lou Chauvin

83304EF-P

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07/05/2006

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EXAMINER

CHANKONG, DOHM

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/051,340	Applicant(s) CHAUVIN ET AL.	
	Examiner Dohm Chankong	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1> This action is in response to Applicant's remarks, filed 4.20.2006. Claims 1-19 are presented for further examination.

2> This is a final rejection.

Response to Arguments

3> Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues in substance that Smart does not disclose a provision for an offering based on a business relationship between business entities and providers at an order terminal. It should clarified that the Office equates Smart's users of the photo services as a business entity. Since the claims fail to further limit the term "business entity", the Office may broadly reasonably interpret Applicant's claim language consistent with the specification.

Smart is directed towards a printing service whereby a provider may provide an offering to users based on various criteria, including the relationship between the provider and the user (business entity). For example, Smart discloses that a provider's services are based, in part, on a user's requirements [Table 1 : "Selection decisions can change...based on...user requirements"]. A user may, for example, select high-resolution images or low-resolution images [0170]. Thus, as interpreted by the Office, the user's selections define the type of business relationship established between the user and Smart's service provider. That is, the provider will base its offering on what a user selects, such as a high-resolution image

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or a low-resolution image. The offerings provided by the service provider are entirely based on this relationship between the user and the provider.

4> Applicant has traversed the Office's use of Official Notice with respect to offering price based on business relationship and a business relationship including friendly, neutral and hostile. Pursuant to MPEP § 2144.03(C), the Office offers the following documentary evidence in support of the two Official Notices.

First, in regards to the offering price based on business relationship, the Office submits Blair et al, U.S Patent Publication No. 2002|0069244 ["Blair"]. Blair discloses that an offering to customers includes an offering price based on the business relationship between the customer and the service provider [0063, 0066 where : Blair discloses tiered pricing structures for different business entities (customers)]. Blair's tiered pricing structure is based entirely on the business relationship between the customers and the providers [0066, 0070 where : Blair's tiered service level agreements represent a business relationship between the customer and provider]. This type of business relationship is a well known sales strategy. For example, preferred customers at stores may receive discounts for certain goods whereas regular customers must pay full price.

Second, in regards to the business relationships including friendly, neutral and hostile, the claims do not further describe these terms so the Office can give these terms the broadest reasonable interpretation. Blair teaches that a customer may have varying tiered relationships with a service provider [0066, 0083]. Blair teaches that some customers may be preferred [0070]. Thus, Blair supports the official notice that a customer's business

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relationship with a service provider includes different levels – a preferred customer that receives more incentives is interpreted as a friendly relationship whereas Blair's regular subscribers (nonpreferred) is interpreted as a neutral relationships. Customers who are not subscribers may not have an established relationship with a provider and is considered hostile. These types of business relationships between customer and provider are well known in the art.

Pursuant to MPEP § 2144.03(D), since the Blair reference is merely added in response to Applicant's traversal of the Official Notice set forth in the previous Office action, and the reference is added only as directly corresponding evidence to support the prior common knowledge finding and it does not result in a new issue or constitute a new ground of rejection, this action is properly made FINAL.

5> In the spirit of advancing prosecution, the Office suggests that the claims be amended to further clarify Applicant's claimed terms such as "business entities" and "business relationships". As currently written, the claims are broadly written and the claim language does not proscribe the Office's current interpretation of the claims [Smart-Blair's user-customer as a business entity and Smart-Blair's customer-provider relationship as a business relationship].

Claim Rejections - 35 USC § 102

6> The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

7> The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8> Claims 1, 3-7, 9-10, 12-16, and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Smart et al. (hereinafter Smart), US 2003/0208691.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9> The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10> Claims 2, 8, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smart, in view of in view of what was well known in the art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

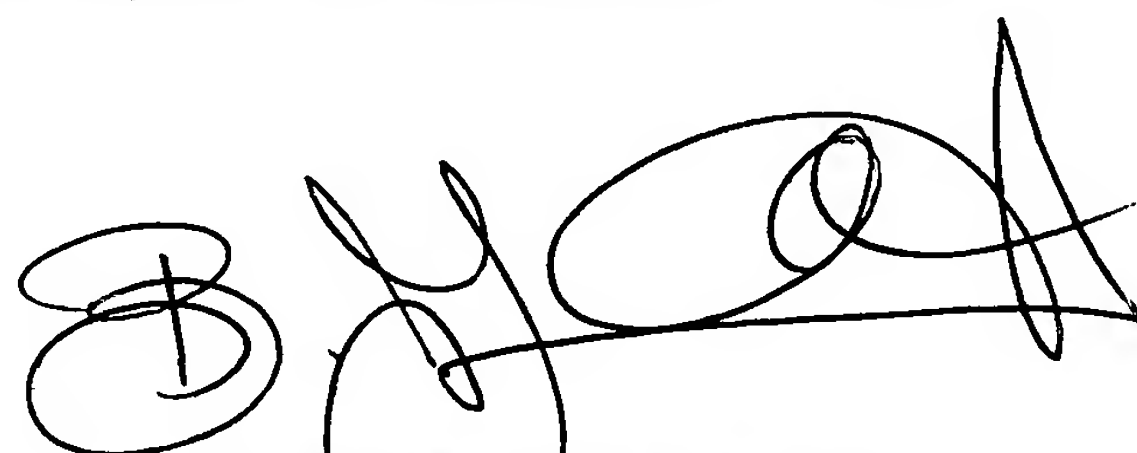
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC



BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER